

47-1-1. Declared a nuisance -- Abatement.

Whoever shall erect, establish, maintain, use, own or lease any building, structure or place, for the purpose of lewdness, assignation or prostitution is guilty of nuisance, and such building, structure or place, and the ground itself, in or upon which such lewdness, assignation or prostitution is conducted, permitted or carried on, and the furniture, fixtures and musical instruments therein and the contents thereof are declared a nuisance, and shall be enjoined and abated as hereinafter provided.

No Change Since 1953

47-1-2. Injunction -- Notice to owner of premises.

Whenever a nuisance as defined in this chapter is kept or maintained, or exists, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Utah, upon the relation of such county attorney or citizen, to perpetually enjoin such nuisance, the person or persons conducting or maintaining the same and the owner or agent of the building or ground upon which it exists; provided, that when the owner or agent is not in the actual possession of the premises he shall have, before an action is brought under this chapter against him or affecting his real estate, notice in writing of the existence and nature of the nuisance, and he shall have a reasonable time after service of such notice in which to abate the nuisance. In such action the court, or a judge thereof, shall upon the presentation of a complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court or judge that such nuisance exists, by evidence in the form of affidavits, depositions, oral testimony or otherwise, as the complainant may elect, unless the court or judge, by previous order, shall have directed the form and manner in which it shall be presented. Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at his instance, the writ as prayed for shall be granted as a matter of course. When an injunction has been granted it shall be binding on the defendant throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided for shall be a contempt as hereinafter provided.

No Change Since 1953

47-1-3. Evidence -- Dismissal of action -- Costs.

In such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the relator and his attorney setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the county attorney to prosecute the action to judgment, and, if the action is continued for more than one term of court, any citizen of the county or the county attorney may be substituted for the relator and prosecute the action to judgment. If the action is brought by a citizen and the court finds there was no reasonable ground or cause therefor, the costs may be taxed to such citizen.

No Change Since 1953

47-1-4. Violation of injunction -- Proceedings for contempt.

In case of the violation of any injunction granted under the provisions of this chapter, the court, or a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information, under oath, setting out the facts constituting the violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of witnesses. A party found guilty of contempt under this section is guilty of a class B misdemeanor. A fine imposed shall be not less than \$200 and any imprisonment in the county jail shall be not less than three nor more than six months.

Amended by Chapter 178, 1986 General Session

47-1-5. Order of abatement -- Execution -- Sale of personal property -- Padlocking.

If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, and movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and shall further direct the effective closing of the building or place against its use for any purpose, and the keeping of it so closed for a period of one year, unless sooner released. If any person shall break and enter or use a building, structure, or place so directed to be closed, he shall be punished as for contempt as provided in Section 47-1-4. For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Amended by Chapter 4, 1993 General Session

47-1-6. Proceeds of sale -- Disposition.

The proceeds of the sale of the personal property shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the defendant.

No Change Since 1953

47-1-7. Bond to secure abatement -- Procedure.

If the owner appears and pays all costs of the proceeding and files a bond, with sureties to be approved by the clerk, in the full value of the property, to be ascertained by the court, or in vacation by the clerk, auditor and treasurer of the county, conditioned that he will immediately abate the nuisance and prevent the same from being

established or kept therein within a period of one year thereafter, the court or the judge may, if satisfied of his good faith, order the premises that have been closed under the order of abatement to be delivered to the owner, and the order of abatement may be canceled so far as the same may relate to said property; and, if the proceeding is an action in equity and such bond is given and costs therein paid before judgment and order of abatement, the action shall be thereby abated as to the building only. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

No Change Since 1953

47-1-8. Permanent injunction -- Fine.

Whenever a permanent injunction issues against any person for maintaining a nuisance as provided, or against any owner or agent of the building kept or used for the maintenance of the nuisance, all parties found guilty of maintaining the nuisance, or assisting to maintain the nuisance by furnishing or letting the building for the maintenance thereof, or otherwise, shall each be punished by a fine of not more than the maximum fine for a class A misdemeanor. The payment of the fine does not relieve the person or persons from any other penalties provided by law.

Amended by Chapter 178, 1986 General Session